

FILED

4:11 pm, May 21, 2020

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
Roger A.G. Sharpe, Clerk

IN THE UNITED STATES DISTRICT COURT
INDIANAPOLIS DIVISION

Steven C. Litz,)
)
Plaintiff)
)
v.) Case No. 1:20-cv-00377-TWP=DLP
)
My Car Warrior, LLC,)
)
Defendant)

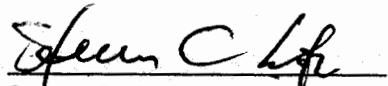
VERIFIED MOTION FOR ENTRY OF DEFAULT

Plaintiff, *pro se*, moves for entry of default against defendant as to Count I of his complaint. In support thereof, plaintiff states that the Clerk issued a Clerk's default May 14, 2020, against defendant, and this court granted the default judgment in part the same day as to Count I of plaintiff's complaint. To the best of plaintiff's knowledge, defendant (a Florida Corporation) is neither an infant nor incompetent nor in the military service. Notice of the default was served upon defendant's registered agent May 14, 2020.

With respect to damages, plaintiff indicates to the court that 47 U.S.C. §227 (b)(3) provides statutory damages of a minimum of \$500, but allows said damages to be trebled if "...the court finds that the defendant willfully or knowingly violated" the statute. In this case, defendant used a "spoofed" phone number to camouflage its true phone number, admitted that it did so specifically for the purpose of getting potential customers to accept and respond to the call (Plaintiff's Complaint, Count I, ¶18), and began its call using an artificial or prerecorded voice to deliver an introductory message without plaintiff's prior express consent (Plaintiff's Complaint, Count I, ¶10) in violation of 47 U.S.C. §227 (b)(1)(B), all of which also violated the Abusive Telemarketing Act, 16 C.F.R 310.4 (b)(1)(iii)(B), as plaintiff had previously registered his phone number on the Do Not

Call Registry (Plaintiff's Complaint, Count I, ¶2). As such allegations are now factually established since defendant has been defaulted, plaintiff has met the court's (and the statute's) requirement of proving defendant's willful and/or knowing violation of the Acts, 47 U.S.C. §227 (b)(3), and is entitled to have the statutorily minimum damages trebled.

WHEREFORE, plaintiff moves for entry of default against defendant in the amount of One Thousand Five Hundred Dollars (\$1500).



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VERIFICATION

I hereby certify that the foregoing allegations are true and correct to the best of my knowledge and belief.



Steven C. Litz

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by United States mail this 19th day of May, 2020, upon defendant's Registered Agent at the following address:

Bruce Record, Registered Agent
My Car Warrior, LLC
6265 2nd Ave. N
St. Petersburg, FL 33710



Steven C. Litz